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SPEECH
OF
MR. ARCHER,
ON THE PROPOSITION
TO AMEND THE CONSTITUTION
OF THE UNITED STATES,
RESPECTING THE
Election of President and Vice President.

DELIVERED IN THE HOUSE OF REPRESENTATIVES,

February 20, 1826.

The following resolutions, proposed by Mr. McDUFFIE, being under consideration, viz :

Resolved, That, for the purpose of electing the President and Vice President of the United States, the Constitution ought to be amended in such manner as will prevent the election of the aforesaid officers from devolving on Congress.

Resolved, That a uniform system of voting by Districts ought to be established in all the States, the number of Districts in each State to equal the number of Senators and Representatives to which such State may be entitled in Congress, and each District having one vote.

Resolved, That a select committee be appointed, with instructions to prepare and report a joint resolution, embracing the aforesaid objects.

Mr. ARCHER, of Va. addressed the Committee of the whole. He commenced his speech by an expression of his satisfaction at the modification which had been submitted of the Resolution, as first presented to the Committee. Involving, as it did in its original shape, two pro-

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positions, distinct in character, though not in subject, and admitting of diversity of opinion, he confessed he had been at a loss how to reconcile the difficulty it had created. From this difficulty we were relieved, however, the propositions having become separable in discussion, as they were in the objects they pursued, and as he trusted they would be, in the reception which awaited them from the Committee.

He should have frequent occasion (as a person following him would, unavoidably, have to do,) to refer, in the course of his remarks, to what had fallen from his friend from South Carolina, with whom, though dissenting from one of his propositions, he concurred in many of his views, and in the first, and that which he regarded as the most important of his resolutions. He should profit by this concurrence, to abridge the remarks he should have to offer on this Resolution, conscious that he could add little to the force of the views which had been stated of it. In the view which had been taken on the general subject of this amendment of the Constitution, he entirely agreed. He agreed, that not only general reason and expedience, but the language of the Constitution itself, repudiated the idea of its superiority to amendment. The framers of the Constitution themselves, he said, if now mingling in our deliberations, would be the first to discountenance the suggestion, that there was more than mortal perfection infused into the great work they had produced. Time and experience were the wisest of all things. He was disposed to admit no other authority as paramount to the Constitution; and the practical rule in relation to the amendment, he thought, therefore, ought to be, that it was only to be resorted to for defect, which experience had disclosed. In relation to all suggestions of defect, not ratified by this authority, he thought it the dictate of prudence, no less than modesty, to hold the wisdom of the Constitution superior to our own.

There was another preliminary remark with which he must be indulged. One of the resolutions was surrounded by invidious topics of allusion. His friend from South Carolina had given him great satisfaction by the determination he had expressed, to discuss this important subject, without permitting himself to be influenced by temper, or by any unworthy associations. It was hardly necessary to say, that he should be governed by the example, and observe the same rule of conduct. His friend had not exaggerated the importance of the subject. Indeed it was scarcely possible to exaggerate it. He agreed en-

tirely, that the part of the Constitution which referred to the election of President, was the most vulnerable of the whole, and presented the point, in which our system stood most exposed. The disturbing influence of the frequency of the recurrence of the election operating on the peculiar character of the office, justified solicitude. The vessel rode in peril in the neighborhood of this shoal. Every provision of precaution, therefore, was due to a situation of this exposure. Interests were associated, Mr. A. said, with the progress of our National System, of higher order than had ever been identified by the ordination of Providence, with the fate of any human institution! Our own widely expanded, and rapidly filling Continent, was not exclusively involved. An irresistible impulse to political regeneration, pervaded almost every region of the earth. The elements had been repositied, and active in political effervescence, or latent in the social condition; the processes were going on, from which results inappreciable in magnitude and value were to spring. And where, Mr. A. asked, was the principle from whose action these imposing results would trace their source? *It was the influence of the spectacle of the free institutions of this country!* This was the "touch of Promethean fire" which was destined to waken the *heart beatings* of freedom, through the world. Where in the wide expanse was the region, which the glow of this genial inspiration was not fated to reach? It was to be hoped fervently there was none—generous enthusiasts believed that even benighted Africa was destined to break through her cloud of centuries, and to grow bright in the light of our *radiating* example. All must, in any event, admit, that if this light were once obscured, no future sun could be looked for, to restore the *day time* of freedom to the world. The extraordinary personage who had recently swayed, on the continent of Europe, the greatest of all Empires, had said in a spirit of sublime animation of his soldiery, on a particular occasion, that forty centuries looked down on the issue of their military operations. In how much a more sober spirit, it might be affirmed, that not forty centuries only, but the whole train of future time, with its inappreciable destinies, looked on the progress of our political experiment; which perhaps, was, in a greater or less degree, to be affected by the issue of the counsels in which we were now engaged. In the contemplation of a question of this magnitude, he would not believe it in human nature to permit the sordid stain of party acrimony to pollute its unutterable dignity.

Of the points, Mr. ARCHER went on to say, in which modern might claim superiority over ancient times, none was more remarkable than that which related to the art of government. Magnificent Empires, flourishing Republics were presented to our admiration in ancient times. And what was the spectacle which impressed us? The precarious and irregular character of their exertions—the incomprehensible rapidity of their decay—the marvellous facility of their subversion. A battle overpowered, a breath was sufficient to overturn them. The resolution of these peculiarities presented the problem which was, beyond all comparison, the most interesting in history. What was the cause? The ancient Governments wanted the true principles of political institution. The Empires were subverted or perished, because they did not admit the sustaining conservative principle of the action of the will of the community on the machinery of the Government. The Republics were swept away by the irremediable disorder, growing out of the want of balanced forms, to prevent the principle of popular sovereignty from running into despotism. From these fundamental defects we were happily exempt. Perhaps, in reference to this particular department, no improvements remained to be introduced. But in reference to another, of scarcely secondary interest, there was a desideratum. He alluded to the subject of the efficient and safe organization of the Executive. Here the difficulty was of no common order, resulting from the peculiar character of the office, requiring it to be confided to a single functionary, yet surrounded by every allurement to wrong bias, as respected the persons who were to bestow, as well as those who were to discharge it. In relation to this subject we appeared, to Mr. ARCHER, to have adopted the most beneficial and efficient regulations which it was in the competency of wisdom to devise. The office had been rendered elective—limited to a short term—removed, as respected the election, from the seat of bad influence, and referred to the disposal of those who, from various causes, were least liable to the access of this influence. But a resulting difficulty was presented. A majority of the electoral votes must be requisite to an election—or by the influence of the distractions of public sentiment, it might be placed in the power of an inconsiderable minority, to dispose of the office. Then this contingency must be provided for, of a distribution of the electoral votes, giving to each person receiving any portion of them, a suffrage less than that of a majority. What had been the regulation pro-

vided, in reference to the occurrence of this contingency? The contingency was not expected, however, frequently to occur. The depths of political refinement would not be expected to be sounded, therefore, in arranging a provision for its occurrence.

In the event of its occurrence, the difficulty it created, would be pressing. An arrangement which was immediately available, would be in request; and that which presented itself most obviously, and was the most easily available, would therefore be preferred. In failure of the primary election, the persons the best entitled to supply the place of the original electors, in conducting it, would be their Representatives. Those persons would be required to be in assemblage too, at the time of the difficulty requiring provision in the discharge of other functions. They would be recommended then by all the considerations alleged: the pressure of the difficulty for arrangement; the obviousness of this particular arrangement, the facility of its adoption, the relation of these persons to the original electors, for the discharge of this resulting office of election. Such were the considerations, Mr. A. said, which must have operated with the framers of the Constitution in the introduction of this provision. A farther inducement was probably found, in the fact, that the action of representative bodies had been known to them only in its best forms, and most favorable aspect. A body of this character had recently carried them successfully through the struggle of the Revolution, with no room for suspicion, that such a body would ever be found evincing dereliction to the will of its constituents; to which the mode as well as the principle of its composition, would bind it to subservience. Such considerations as these, Mr. A. insisted, and no independent and intrinsic views of policy, in reference to a peculiar qualification or proper adaptation for the office, had induced the selection of the national Representatives, for its discharge. The failure of this provision, therefore, when called into practical operation, constituted no imputation on any real policy of the Constitution, nor on the uncontested wisdom of its framers. It was a provision for emergency scarcely expected to occur, selected for its facility, obviousness, and ready adaptation to the occasion; and not from its intrinsic recommendations, in reference to the elective function to be discharged. But we were now enlightened as respected the real character and effect of this provision by knowledge which was denied to the framers of the Constitution, derived from practical experiment of

its mode of operation. On the first trial, on the first occasion of the election being devolved on the House of Representatives, what had been the spectacle exhibited to the indignation of the People? Ballots were taken day after day and night after night, until thirty-seven ballotings had taken place, before the *known and uncontested public will* was allowed to be triumphant! We have the light of this example, denied to the framers of the Constitution. Having been conversant with representative bodies only in their purity, their provision was not made for a state of things, of the possible occurrence of which they had formed no conception. This provision of the Constitution has been twice acted on; the election has twice been brought before the House. He should not allude to the second advent in any feeling of acrimony; but, this he might be allowed to say, that the result of this reference had not given entire public satisfaction. He did not say this ought to have been the effect; he was simply speaking to the fact—this was the effect. No matter how correctly the election was conducted, such was the result; and if all the persons engaged in it were above the reach of human infirmity, whenever the election comes to the House, such dissatisfaction will ensue. Why is this? Because, three candidates being sent from the primary elections no one can be elected but by a combination among the friends of the other two! and no matter how pure may be the principles and views of all parties, suspicion will attach, that improper considerations have influenced the result. He would say, that no Executive, elected under such circumstances, could be efficient and pure. The effects of discontent will always show themselves, first on the efficiency, and secondly on the purity of Government. The Executive is only the organ of the public will. If the People attach suspicion to his motives and conduct, his administration cannot be efficient. Why cannot it be pure? Because, if an administration be not supported by the People, it must seek support by other modes. This is the law of human nature. If the fabric cannot stand firm and safe on its proper foundations, it must be sustained by buttresses which are external. If the Government has not the support of the People, it must, perhaps it ought, to resort to the means of corruption for its support. If, then, such are to be the results, ought we not to *occlude* this House to the advent of this election?—ought we not to take the election from the House if it be likely to come here again?

And was it likely to come again? This event must always hereafter occur. The period could scarcely be conceived, in which it could hereafter be avoided. Such a period not only could not arrive, he hoped it never would arrive: for he felt a pride in believing, that there would always be four or five persons brought before the People, as candidates for this high station, who would all be entitled, by their merits and abilities, to the suffrages of their fellow citizens. The country being divided into Geographical sections, and education widely and generally diffused, talent in various quarters would be elicited, equal to this elevated station; in any event, the People of that particular quarter will think it equal, and each sustain its favorite; and thus the election will be thrown into the House. The geographical divisions of our country, as well as its extent, impose limits to the sphere of popularity. If the reputation of an individual travelled beyond his own State or division, it would be sure to meet, in some other, perhaps in every other, rivals, elevated, if not by equality of pretension, by the force of party or sectional prepossession; and, sustained by the same influence, or by that of antipathy and jealousy, derived from the same source. The South would support a Southern, the West a Western candidate, from the want of opportunity for the institution of adequate comparison; or from the approach to equality in the results of this comparison; or it might be from the force of unrelated considerations and prepossession. Was the case even inconceivable, that a candidate without personal popularity might be sustained, by these considerations, so as to be brought as a competitor to the House? He disclaimed all particular allusion. In the great discussion in which we were embarked, he felt himself in a region, and invested with a character, superior to such allusion. But take the strongest case in illustration of the proposition he was stating, which our Geographical influences and national composition afforded. Suppose a candidate brought forward in the New England States, who always acted together—he mentioned this not in the way of reproach, but with respect for their consistency and union—they were capable of the sacrifice of particular and personal considerations, for union; he wished the South would take example from them: Suppose a candidate brought forward in the New England States, was it questionable who would get their votes? If Virginia brought forward, not the Father of his Country—that example to introduce were irreverence—but its second father, the man who promulged the independence which

the best and the greatest of Patriots achieved—who would get the vote of New England? Would it not be the candidate from New England? Would any man say, this would not be so? Perhaps it ought to be. The principle which would lead to this result, was of more value than any man. These States, acting in a body, will always act with more effect. It would be the same in the South; the same in the West. But the consequence of the operation of these principles was the multiplication of the number of competitors, who would be strongly sustained, and the certain advent of the election to the House in future periods. The diffusion and equality of pretension; the limitation on the sphere of popularity; the influence of views and prepossession, derived from Geographical subdivisions and feelings; rendered this event inevitable. The election must come perpetually to the House, unless, by the amendment of the Constitution, we occlude it. The only way to avert this evil, is to take away this jurisdiction. Why has not this election come to this House on the occurrence of every period of election heretofore? He would tell the Committee why it had not. The operation of circumstances, accidental in their character, and which were now superseded in their operation, had prevented this result. The country had been distributed, by the influences resulting from the recent adoption of a new and untried political system, into two grand divisions of party, arraying themselves by concert against each other, in the election of the President. The election of the Father of his Country was a peculiar case, in relation to which, the voice of all distracting influence was *hushed*. But was it hushed, said Mr. AUCHER, in relation even to this case? It was with regret and pain that the fact was to be stated, but the fact was, that, at the second election of our first President, the voice of distraction, though not rendered audible in any electoral suffrage, did vent itself in murmurs, which, though broken and submitted, were distinct.

It may be, that, at the ensuing election, this voice would have been roused to a louder tone, and resounded in a national opprobrium, if a magnanimity, on which the love of power had no hold, had not added a redemption from this shame to *its other and larger tribute of preservation*. In all subsequent elections of a President, party organization had prevented the election from coming to the House of Representatives. Until what period? Until that period, when, under the influence of new doctrines, not the instrument of party organiza-

tion only—caucus—but party organization itself was given up. Mr. A. was not going, he said, into any commentary on the character of these doctrines, nor of the consideration from which they sprung, nor of the result they had achieved. He had very distinct opinions on these subjects indeed, but he should withhold them at this time. He spoke now of the fact historically. The influence of party organization in preventing the election of the Chief Magistrate from coming to the House of Representatives was destroyed. Then the causes which were of efficient activity to bring it there, would be left to an unrestricted operation. Then it must always come there, unless in the occurrence of some new and inexperienced state of things. The removal of the collateral preventives, and efficiency of the causes which operate to bring it there, may always be expected to bring the election to this House, if this jurisdiction be retained.

What will be the result when it does come to the House? Supposing that there should be no corruption, such as his friend from South Carolina apprehends, but the utmost purity should prevail, what will be the result? This Body, instead of being the forum of legislation, will be the arena on which passion will be arrayed against passion. The independence of this House must be destroyed. The party which has been successful, and elected the President, must sustain him. Suppose he should be opposed by a strong party, then they must use means to become stronger than they were. This is inevitable. Effects must follow causes; the laws of nature are not to be trammelled or contravened by our speculations. Suppose there should be corruption: for we must look to other times when the power may devolve on other men—if the People should suspect that corruption has been operative in the election, will they submit it to be sold like a herd? If the highest office in the country be disposed of by venality, will the People sit down undisturbed and unresisting spectators of it? Will the victim make no *struggle at the spectacle of the shambles*? Then what is the consequence which may be expected to ensue? In what is this state of things to result? There could be but one answer—a convulsion of the State!

If, then, the election should come to the House, one of two consequences must ensue: either the House will become an arena for a conflict of passions, or civil convulsion will result. Does not every appeal which can be addressed to prudence or to patriotism, invoke

the prevention of either of these evils? If the election be destined to come here, the whole circumjacent atmosphere must be poisoned, "in which we live and breathe and have our being." A river of dark and deadly waters, such as held its course through the fabled Tartarus of antiquity, must flow from this fountain a pestilent and brackish torrent through the land. Are such mischiefs to be avoided? Shall we oppose ourselves to their appealing claim, for obstruction and prevention? What, too, is the demand of the Public voice on this subject, in relation to this particular branch of the proposition for amendment? Can the character of this demand be contested? Does it not claim the abrogation of this jurisdiction of the House of Representatives? Doubt had been entertained, whether an implicit obedience were due to the constituent will, in relation to the discharge of the functions of ordinary legislation. Similar doubt had been expressed in relation to the discharge of the function of election which was called into action by the devolution of the election of the President on this House. In relation to these subjects, it had been said that we were not to be regarded in the character of agents, but of arbitrators and referees, whose subservience was due to justice, and not to instruction. Mr. ARCHER had no design to go into any discussion of the correctness of this doctrine now. But whether the doctrine were to be recognized or rejected, it could have no application to a case of the character of that in question, of the alteration and new modification of a part of the organic fundamental law of the State—the Constitution. It could not be said, without a temerity, meriting the name of audacious, that the known public will was not to be received, to give the rule of change or preservation, as respected the form or modification of the fundamental compact of the community. Could the demand for this change, in relation to the proposition of amendment under discussion, the divestiture of the jurisdiction of the House of Representatives, be denied to exist? Was not this demand peremptory, imperative, explicitly announced in the modes in which it admitted of being announced? Was not the Public voice loud, distinct, decisive in its tone upon this subject? Who were we, then, Mr. ARCHER asked, who may be deaf to this voice, rebellious to this demand, may exert an audacious authority to supersede, to countervail, to annul the public will? We were the appointed organs and agents to express, to digest, to give form, and fruit, and power, and efficiency to this will. We would not have the

hardihood then to oppose ourselves to what he conceived to be the unquestionable public sentiment on the subject of this amendment. This was shewn, if proof were desired, by the multiplicity of the propositions of amendment which had been submitted, all of which had grown out of the general excitement in relation to the object which is now proposed—the divestiture of the jurisdiction on the House of Representatives, in the election of the President.

What, then, are the circumstances in which we are placed, and called on to express a voice, in relation to this amendment? He respected the wisdom of the framers of the Constitution as much as any man. No man was more ready not to acknowledge only, but to defer, by practical accordance, to their views. It had been shown, however, in relation to the provision which it was sought to abolish, that they had acted from no view to the intrinsic policy of the arrangement, but in reference to considerations which were collateral and accidental only. Time would press and exigency, from the period of the election of the President to that appointed for the entrance on the duties of the office. The House of Representatives would be in session in this interval in the discharge of its other and ordinary duties. The framers of the Constitution were authorized in admitting the belief, that this body could never do otherwise than fulfil the will of their constituents, in relation to this as to the ordinary routine of their duties. Experience and time, and these only, have made us wiser.

Most reluctant would he be to impute mistake, in the smallest point, to the framers of the Constitution. But in their view, in relation to this provision, they had acted in reference to an accidental ancillary contingent arrangement, and which they probably regarded as of subordinate importance, not claiming the resources of that profound and elaborate exercise of precaution, which is the most signal mark of their labors, and tribute to their wisdom. Nothing was there which induced them to adopt that provision, which would now forbid them to adopt this amendment. There is no reason to forbid our revisal of the Constitution, when defect has been demonstrated by positive experience. There is imperative reason demanding this revisal, when it is enjoined on us by the public will. He hoped, therefore, that, in the multitude of amendments which had been offered—and he regretted to see so many propositions—we should agree in this point in relation to which the will of our constituents had been too plainly expressed

to be misunderstood—to *abrogate, to rescue, to vindicate*, this pernicious jurisdiction from the House of Representatives.

Such were the views he had felt called on to submit, in relation to the first branch of the inquiry. He came now to the second branch, the desire to submit his views in relation to which, had formed the almost exclusive inducement to his obtrusion on the Committee.

He had said that the amendment proposed by the first resolution, was unequivocally demanded by the public voice. But could this, he asked, be affirmed of that contemplated by the second resolution? The Constitution now accorded to the several States a perfect liberty of voting for electors in the manner they might approve. On this subject, therefore, there could, of course, be little room for dissatisfaction or excitement. The attempt was under cover of the strong and just sentiments of discontent awakened in relation to the subject of the first branch of the amendment, to press the adoption of the second part, united to it by no essential principle of connexion, nor demanded by any expression of public feeling and opinion. And here it would be necessary, Mr. A. said, to advert to the practical rule he had already laid down, in relation to the general subject of Constitutional amendment, namely: that it was only to be resorted to on the occasion of defect, demonstrated by experience. In relation to the demand for amendment, under other circumstances than this, it had been seen that it was the dictate, no less of prudence than modesty, to hold the wisdom of the framers of the Constitution as our rule. It was in deference to this rule, and because he considered that defect had been demonstrated, and danger disclosed, by that test which alone was paramount to the wisdom of the Constitution, that he had expressed himself in favor of the first of the proposed amendments. But why, he asked, attempt to alter the mode prescribed for the primary election of President? Had it failed, in any degree, in the attainment of the object for which it was designed? The design was to elicit a true expression of public sentiment. Who would say that this had not been attained at the period of the election of every President of the United States? In the utmost violence and heat of altercation, on this subject, had the contrary ever been averred? No such thing had ever been pretended. Then what was it we were called upon to do? To abrogate a provision which has answered avowedly and perfectly its purpose, and that the very purpose which it was proper

it should answer. It was wise not to push a remedy beyond the evil against which it was provided. Here we were not only asked to do this, but in truth to conjoin with the proper remedy, something, the effect of which must be to irritate the source of the complaint. Why does a strong feeling exist in relation to the election of a President by this House? It results from the primary election having answered so completely its object as to have brought the election, in a recent instance, to this House. The votes of the primary electors at the last election, fairly reflected the public mind. The declaration they had made was true, that there was no majority of the People in favor of either of the candidates at that election. This election was a mirror, which reflected, not merely the general aspect of the public mind, but its minutest features also. It presented not only the peculiarities, but the distraction of opinion, as they really existed. Was this mirror to be broken, because exhibiting objects with fidelity, it did not exhibit them in precisely the aspect we desired? The rule being that the Constitution was only to be amended for practical imperfection, were we to supplant an important provision, fulfilling, faithfully, its office, in practical operation, because the result, in a particular instance, had not been concurrent with our peculiar prepossessions? For himself, Mr. A. said, when he had been accustomed to reflect, in a general view, on the wonderful adaptation of the Constitution, not in its largest only, but in its minutest provisions also, to the attainment of its ends, he was almost betrayed into the delusion, that, in accomplishing their task, its incomparable framers had been aided by a wisdom not their own. Their work stood in every view that could be taken of it, paramount to the political institutions of every age. The only change introduced, since the commencement of its operation, (in relation to this subject of the Presidential election,) had tested the indiscretion of interference with its arrangement. The change now proposed, in reference to the same subject, (by taking the election from the House of Representatives) violated no policy, but only an arrangement of convenience, suggested by its obviousness as a provision for a contingent event, and was no real infringement, therefore, of the plan of the Constitution. This provision, in relation to the mode of primary election, however, was now represented as obnoxious. Complaint had grown out of the distraction of public sentiment, on a particular occasion, and the design was to adopt a provision, the effect of which must

be to produce a more aggravated distraction of this sentiment on all occasions on which the provision would have to operate. The present mode of election expressed the general, as well as sectional, differences of opinion which prevailed; and the wish was to adopt the district system, that every petty and unworthy personal difference might be expressed in the same manner, and with the same high relief.

Most of the objections to the arrangement of the Constitution, Mr. A. thought like those sometimes urged against the arrangements of a higher wisdom, only specious till the design of these arrangements had been explained. This was the case with respect to this subject of the primary election of President, in relation to which his friend from South Carolina had been able to discover no design, and had supposed that we were left without the guidance of any fixed principles of regulation in a matter of this importance. He could not conceive that any principle presided when the rule was variable with the legislation of every State. It was a matter of no difficulty to admonish him of his error, and to develop to his view a principle of the most profound and salutary design, presiding in this arrangement. Our first form of federative Government, Mr. A. said, had exhibited a condition of complete dependence of the general on the State Governments. Perhaps from the jealousy of national power which prevailed, no other form of a national system would have been tolerated, till the incontrovertible testimony of experience had demonstrated its defects and inefficiencies. The whole mass of the functions of the General Government were administered by a single class of agents, a representative assembly. We had no other General Government than Congress. When this plan came to be substituted by the present form of federation, it was necessary to keep the two systems of a General and State Government, in connexion and correspondence, as parts of a consistent though complex adjustment of machinery. What were the means by which this arrangement was to be effected? It could only be done by making the concurrence of one part of the system requisite to the action of the other part. The General Government was to take its life from the State Governments, which were antecedent both in existence and authority. The dependence, then, which was necessary to the congenial and harmonious operation of the two systems, must proceed from the States, and rest on the general authority. In what manner were the links of this dependence to be contrived? There

could be but two modes of this dependence; the one of the General Government on the State Governments, for its operation; the other for its organization, and the appointment of its officers. No other modes of the dependence and necessarily concurrent action of two political systems, could be conceived. The first of these modes, however, the dependence of the general system on the States for its operation, had been condemned by an experience that was unequivocally instructive. It was the old system of requisition, which had become notoriously effate, after the excitement of the Revolutionary struggle, by which alone it had been sustained, had been withdrawn. No resources then remained but the dependence of the General Government on the State Governments, for the appointment of its functionaries. To give this absolutely and without qualification, would make the dependence extreme, and might obstruct the salutary efficiency of the General Government. Then a qualified dependence must be resorted to, reserving to the State authorities a controlling instead of an appointing power, as respected the selection of the depositaries and functionaries of the General Government. As respected one branch of the General Legislature, the Senatorial, the power of appointment was given absolutely. This was not a sufficient guarantee for control, however, because the whole body of the Senate, not falling under the power of displacement at one time (this other considerations forbade) a sufficient number of the body would remain, in defiance of the exercise of this power, to sustain and to prosecute a system of disorganizing administration. A further influence over the selection of the general functionaries, was therefore required to be given. Over the House of Representatives a direct emanation from the popular sovereignty, the control was a slight one, (and that guarded) extending to the time, place, and manner, only, of the elections. But, as respected the Executive Department, the control was made effective: unreserved discretion was given over the modes of appointment of the electors of the President. With a design to what effect? That the States might be endued with a capacity to bear with consolidated weight and an undivided strength on the election of Chief Magistrate for the repression of any disturbing tendency which might be developed in the administration of the General Government. This explained the design, as profound, Mr. A. repeated, as it was salutary, which had dictated the arrangement of this part of the Constitution, in relation to which the gentleman from

South Carolina had been able to detect the trace of no intelligible policy.

The gentleman had dilated much on the abstract incongruity presented by our system, in the absence of fixed and consistent regulation on this subject, of the election of federal officers, in those respects, in regard to which an influence had been confided to the State jurisdiction. Arguments of merely abstract character had little weight with Mr. ARCHER. The gentleman had been in error, however, as it appeared to Mr. ARCHER, even in the speculative reasonings on which he founded his conclusion. He had relied with great confidence on the position, that, in relation to the circumstances alluded to, there must be a method entitled to preference over every other, which ought, on that account, to be uniformly established, and fixed on a basis of permanence, by constitutional regulation. This position and its inferences, Mr. ARCHER ventured to controvert. He was of opinion that no method was entitled to an invariable preference, in relation to the matters referred to; and that, if there were, it did not follow that it ought to be established uniformly, or made permanent by the force of Constitutional regulation. As respected the control given to the States, over the time, place, and manner of the election to the House of Representatives, the proposition would not be contested, that varying regulation was required, nor that the State authorities were the best qualified to introduce it. The argument might be exemplified in relation to the oral or ballot modes of the exercise of suffrage. In an abstract view, that mode of the exercise of the highest attribute of sovereignty, which, by its publicity, was suited to the character of the act, must be preferable to a mode, in which the office was exercised surreptitiously, as if its character were clandestine. Yet we had the assurance of gentlemen here, that there were parts of our country in which the independent exercise of suffrage would be entirely subverted by the exclusion of this ballot mode. Notwithstanding his own fixed predilection for the oral mode, Mr. A. was not prepared to controvert the correctness of this statement, and still less to insist on the peremptory enforcement of the mode for which he indulged a preference in all the States; without reference to their varieties of social habitude and condition. Though such enforcement were not intrinsically blameable, it would become so, in reference to public opinion, which was not to be outraged in a free State, from compliance with speculative refinement. The uniform es-

establishment of the oral mode of voting, would be received with disgust and resentment in some States, and the ballot mode in others with a no less decisive sentiment of reprobation. Then neither mode ought to be fastened on all the States indifferently, and fixed unchangeably by constitutional regulation.

Mr. ARCHER proceeded to argue to the same conclusion, in relation to the qualifications of the Electors of the House of Representatives and President, which were submitted to State jurisdiction by the Constitution. Although a peculiar qualification, he said, might appear, in all circumstances, preferable to every other, as the freehold qualification did to him; yet it did not follow that it would be proper to impose it under all circumstances, in opposition to a revolting public opinion, as a yoke on every State, and to render it irremovable by a Constitutional regulation.

The argument was the same, he said, in reference to the election of the immediate electors of the President, by the several modes of a district or general ticket system. Circumstances might be stated, in which diversities of interest and opinion, among the several parts of a State, might require to be expressed by the operation of the district system. Its establishment, in such circumstances, might be no less expedient than equitable. But cases might also be presented, of States distracted not by irreconcilable diversities of interest, but of uncompromising and factious opinion, in which the operation of a district system, on an even number of votes, would divest all participation in the election of a President. Rhode Island with four votes, or Virginia with twenty-four, might be adduced as examples. Would it be no evil, as respected the smaller of these States, in reference to a sentiment of just pride or of patriotic devotion—would it be no evil as respected the large States, in reference to the strength and efficiency of the general administration—that these States should be placed for a series of elections, out of the pale of one of the most important functions of the system which embraced them? And were such results of practical and sensible mischief to be hazarded, for the sake of a mere speculative refinement, on the symmetry of the Constitution? Then the system of voting for the election of the President by districts, ought not to be established uniformly!

But supposing this system admitted by uniform adoption, still less did it follow, that it would be proper to give it the permanence of a Constitutional regulation. It had been already seen, that control over the mode of

the election of the President, had been given for wise purposes to the State authorities, as an instrument of efficient and salutary action, on the administration of the General Government. But a district system once fixed and made unalterable, this control was at an end. If a district system were recognized, either by convenience or opinion, it was in the competency of the States, by the present plan of the Constitution, to adopt it. But their main faculty of control on the administration of the General Government, consisted in the power of departure from this system, as exigency required, so as to be enabled to throw a collected and decisive impetus on the unadjusted and vacillating *lever* of the election of a President. The State might diffuse and spread out the members of its power, in relaxation, but no manacle must prevent its collecting and drawing up this strength, when the season of efficient action impended, and the blow for public safety was required to be struck.

His friend from South Carolina had been right, then, in affirming, Mr. ANCHER said, that the true comparison, in the present discussion, was not between the district and the general ticket systems, but between the district system and the subsisting plan of the Constitution, or, that was to say, in other words, as the gentleman had expressed it, between the district system, and the faculty of violent and arbitrary change, from one of these systems to the other, on the part of the State Governments. Mr. A. accorded his unreserved assent to the correctness of this statement of the question. He admitted that the comparison was between the value of the district system and the value of this power of arbitrary, and what might be called violent change, that is to say, change on the eve of a depending election of President, from the district to the general ticket system. In this faculty of change for the depending crisis and occasion, and with a view to the production of an effect on the election which would be at hand, he affirmed the real efficacy, and just value, of the present plan of the Constitution to consist. The property, which his friend from South Carolina had indicated as its opprobrium, constituted the effective and beneficial vitality of the system he arraigned. The general ticket system was, in an intrinsic consideration indeed, of far greater value, Mr. ANCHER said, than the district system, for reasons which he should have occasion presently to exhibit. But, neither could the general ticket system pretend to competition with the subsisting plan of the Constitution. The subsisting plan, to the superiority of an optional employ-

ment, of either the district or general ticket systems, as demanded by convenience or opinion, added the higher advantage, of a faculty of rapid (and it might be temporary) alteration of its system, for the purpose of timely and decisive operation on the election of the President. This faculty of alteration was liable indeed to abuse for a purpose of faction or injustice ! But so was every other political authority or function; though none in a less degree than this, from the direct and immediate responsibility to public opinion, under which the abuse must be attempted, and the *manifest* character it must disclose, whether disappointed or successful. The fact was in correspondence with the speculative reasoning on the subject. Ample as the opportunity for experiment had been, under the operation of the present system, in how many instances had faction been alleged to have been indulged, or injustice been attempted by the exercise of this power ? The gentleman from South Carolina, with his zeal to collect the examples, had been able, as well as Mr. A. remembered, to adduce two instances only, of the practical attempt, one of them in Massachusetts, and the other in New York. And what was the history of their results ? The first of these attempts had *reacted* so completely (we were informed by the gentleman himself) as to have produced subsequently the passage of this very proposition of amendment of which he is now the advocate, in the Legislature of Massachusetts ! In the other case referred to, that of the attempt of the Legislature of New York, during the past year, to *coerce* the electoral suffrage of that State, the experience had been correspondent with the result of the experiment in Massachusetts. Or rather, the fate attendant on these attempts, had been more remarkably exemplified in the latter instance, by the transference of the larger proportion, indeed nearly the whole mass of the vote, to which the attempt had been applied, from the candidate in whose behalf it had been enlisted. The fate of such attempts would be so generally correspondent, that the danger of their recurrence to any injurious extent, was no subject for apprehension. The value of the present system of primary election could sustain, therefore, no serious impeachment, from liability to an abuse so problematical.

The objections, then, Mr. Archer said, which had thus far been urged to the subsisting mode of the primary election, appeared, on review, not only to be unsustainable, but, as respected the most imposing of them, to redound in placing in stronger relief, the merit of the sys-

tem it arraigned. The particular objection on which his friend from South Carolina had insisted so much, derived from the want of uniformity in the system, which he conceived it of such essential consequence to supply, had been obviated by himself. A principal ground of the objection was found in the tendency which was affirmed to belong to the present system, to produce an universal adoption of the mode of voting by General Ticket. This would be forced, it was said, on every State, independently of the exercise of judgment or volition, as a necessary policy of defence, and vindication of its just participation in the election of a President. But if this suggestion were well founded, as possibly it might be, then the objection to the present mode of election, of its wanting uniformity, furnished only atemporary ground of imputation on it.

The true point of the discussion rested undoubtedly, Mr. ARCHER said, on the comparison between the District and the present system of election. And this last system had been shown to combine with the proper advantages of a District system, the important addition of the exercise of an option between the systems, as circumstances might require, and the gain of an essential power connected with the transition from the one to the other of them. But as the advocates of the proposition of amendment under consideration, were accustomed to place the entire force of their arguments on the alleged superiority of the District over the General Ticket system, Mr. A. was not unwilling to make this comparison the point of the discussion. He maintained that in relation to an Executive officer, the mode of election by General Ticket was better calculated than that by Districts, to afford a just and sound expression of public sentiment—the object of the elective function. The error of the contrary opinion, grew out of an analogy to the character of a Representative function, which in this respect did not hold. The consideration which rendered a District system essential to the just discharge of a representative office, had no sustainable application to the office of the election of a President. The representative sustained a continuing relation to the constituent body, which gave occasion to continual communication, and required personal acquaintance between the parties. Between the person rendering the electoral vote and the President, the relation was determined and complete by its rendition. Interests and views of particular and local character, were confided to the representative office. In relation to the office of President, of purely

national and general concern, the influence of all views and interests of this character were required to be suppressed. It was because the mode of election by General Ticket suppressed the voice of these views and interests, whilst the District mode gave scope and effect to its expression, that the former of these modes was to be regarded as the best. Personal acquaintance moreover, on the part of the mass of the constituent body, which was practicable in relation to a representative, was not so in reference to the President. In relation to this officer, the exercise of suffrage must be determined by information and opinion only. And which classes of information and opinion were most apt to be intelligent, and unperverted, and sound—those which were diffusive through the extent of a State, or those which were imprisoned by the limits of a District? The modes of public opinion were known to be in a great degree factitious, dictated by those enjoying favorable opportunities for the acquirement of influence or knowledge. This was true in an especial manner, in relation to the election of a President. But which class of advisers, Mr. ANCHER asked, was likely to be the safest—those spread through the body of a State, operating as watchmen and checks upon each other, or those collected in the *lists* of a District, with every facility and motive to interested conspiracy?

Whatever might be the force imputed to partizan influence, its operation must necessarily be less extensive and impure in a State than a District. And why? The persons exercising this influence in a State, were to be derived from a larger surface and mass of population.—Their consequence and power of influencing opinion, must have arisen from a reference more direct to public considerations. They would be bound by obligations of higher character to caution in their proceedings, from acting on a theatre more conspicuous and exposed—from having an object of larger bulk and parts less coherent to impell—and from having reputation more extensive and an influence of greater value to compromise from improvidence, or to forfeit by delinquency. The dictators of influence, in a word, of a State, would be partisans: of a District, would be demagogues. The efficiency of the operation of political management, must necessarily present an inverse proportion to the bulk and want of coherence of the parts of the objects it had to move. This was little short of a truth of mechanical philosophy.—The taint of any mode of corrupt influence, must, of the same necessity, present a similar proportion to the ex-

tent of the surface it had to cover. This was little short of a law of chymical affinity. To affirm that a State was liable, in a less degree than a district, to an access of corrupt influence, was no more than affirming the inferior probability of an epidemic to an endemical disease. The air might be impure in spots and districts, but let it be left to mix with the breezes from the ocean, and the currents from the mountains, in the large sphere of a State, and the result would be a general atmosphere of salubrity.

It appeared, then, Mr. A. said, that the mode of election by a general ticket had a character more congenial to the nature of the Presidential office and election than that by a district system, and was better calculated to elicit a sound expression of public sentiment. Then it was a preferable mode for this election.

There was an argument, however, said Mr. A. employed always in a tone of triumph, in objection to the correctness of this conclusion. The argument to which he referred was that derived from the necessity for political management, and what had been denominated a caucus machinery, under the operation of the mode of election by a general ticket system. The allegation admitted the superiority of the general ticket system in other respects. In relation to this much enduring topic, the time-worn analogy of juggling and wires never failed to be employed. Mr. A. had no desire to elude this objection, and it was his intention to meet it directly. He admitted the inevitable occurrence of the mode of proceeding by caucus arrangements, whenever a general ticket system of election was established. And who, he asked, were the efficient operators, the jugglers, in this arrangement—and what was the real effect and character of the operation thus contrived and put in motion? Who are the operators? Men who have attained the general confidence: for this must be the ground of their pretension to the office. Whence do they come? From dispersed places, and the body of the People. Where do they convene? Under the eyes of the People, aware that their temporary function is to undergo the instant ordeal of the judgment of the community. Under what responsibility do they act? Of the forfeiture of the object at stake on their proceeding, the reputation they have acquired, and their influence in future. By what process are their sentiments cemented, and their nomination evolved? There can be none other than the comparison and collation of the popular opinions they bring along with them. Then, with what propriety

could this machinery be arraigned as an engine by which the public opinion was counteracted and oppressed? In relation to the correctness of this imputation, there happened, Mr. A. said, to be a test which was decisive. Suppose a nomination by a caucus in undoubted contravention of public sentiment! Would any person commit himself by affirming, that such a nomination could be made to realize its object, no matter who might be the agents employed in directing it? Then a caucus machinery was not equal to the counteraction of public sentiment. In his own State, on the occasion of the first election of Mr. Madison to the Presidency, a caucus nomination was made of Mr. Monroe, by persons highly respected, and some of them distinguished by previous political influence as well as talent. What was its effect? The consignment of its agents to unpopularity, and not the counteraction of public sentiment. Another countervailing nomination was attempted last year, when Mr. Crawford commanded the real suffrages of the State, in favor of a gentleman also a native of the State. What did it produce? Amusement; but no effect of the contravention of the public will.

There is, indeed, a case in which caucus may have influence over public opinion—and that is, where there is no public opinion—when the people themselves know not on whom to concentrate. In no case does it operate to counteract opinion; and, if opinion remains to be formed, no persons are better qualified to dictate it than those men who have the greatest stake of reputation. The necessity of an election requires that an opinion should be formed, and these are the men to concentrate and give it a direction. This engine of caucus, therefore, does not control opinion, except where no previous opinion exists, and then it ought to control. The real objection, then, to caucus, is not that it suppresses public opinion. It is the efficiency which it gives to public opinion. This is sufficiently evident from both the source and the language of the objections. The source is the minorities of the country; and the language, that minorities are made victims by suppression and imprisonment. When there was so great a clamor on the subject of Presidential caucus, what was the meaning of it? It meant only that one candidate was stronger than the rest. Minorities did not choose to play a game of certain loss, but to take the chances. He did not mention this by way of blame. It is natural; it is thought right; and perhaps it is right. Our inclinations always appear under the mask of duty. Partisans think that they are

patriotic, and this opinion makes them so. They are not liable to censure for refusing to lend themselves to their rivals. They ought not to go into caucus under such circumstances, unless it is to obtain some great good or to exclude some special evil, such as the election of a candidate of different political principles, or that of the election being brought to the House of Representatives. All objections to the caucus system coming then from minorities, do not deserve great consideration. They indulge, however, in fierce invective and formidable calculations of figures. The gentleman from South Carolina has taken this course. For himself, however, he objected to all introduction of figures into such arguments. It was a certain proof that the moral argument is not plain; and equally an evidence that it is not just, because it compels us to borrow from false analogy to sustain it. For this reason, he would not follow his friend from South Carolina through his calculations. He had no great head for figures; and if he could not explain a moral argument without them, he always gave it up. He would never run to strained elucidation till the case is desperate.

The calculations of his friend from South Carolina, as to the relative minorities to be suppressed by district or general ticket system, are entirely conjectural. If they are right, the result in the different States all produce a balance. If the majority in the several States belong to the same side, it is immaterial in what way it is collected. If it be not on the same side, then the modes of suppressing the minorities will balance each other. But it is fair that not only the will of the minorities should be suppressed, but impressed into the service of the majorities. Why? Because you must take the will of the majority as the index to public opinion, and the public opinion as the index of what is right. He would take a case where a joint labor is to be performed, and a certain number of those who are concerned over-rule the others. Those who are over-ruled still owe their aid. The minority must not sit down, and say we will not assist. No; the majority would say you are to participate in all the benefits as much as we are, and you must therefore contribute your aid to the common stock. The claim of the minority involves the assertion of the very principle they reject! They ask to be allowed to extinguish the power of the majority, in the proportion and to the amount of their own strength. This is to ask, in a contest, that the adversary party should only strike with a given force. The allowance of such

a claim would be the principle denounced, of treating political affairs as an algebraic equation, instead of a moral calculation, in reference to public good.

The suppression of minorities is right, because incident to the social law by which minorities are subjected to majorities. Caucus is right, because incident to the best mode of collecting the public will. It is inevitable in the operations of the General and State governments; and he had, as yet, whatever the future might exhibit, seen no good results from its abandonment. That which is relative good, is right in the view of a wise man. The general ticket system is the best mode of collecting public will, in relation to the election of President, as affording a more efficient, as well as a more depurated expression of public opinion. Why not, then, have a general ticket system throughout the Union? There are two reasons against this system. No proposition being true, universally, this of the superiority of the general ticket system, has qualification. 1st. It is true only of an Executive office; 2d. It is true only to a certain extent. Where there is a general affinity of interests, there can be no injustice from over-ruling a minority. Where a very considerable discrepancy is made, there might be injustice; but there is no injustice in suppressing minor differences. There is this affinity of interests between the parts of a State. A State population must be in a manner homogeneous. Any differences, therefore, subsisting between portions of that population, are not very important. Between different States, however, discrepancies of greater magnitude may arise, so that, although the general ticket system may be considered good in its bearing on the different parts of a State, it would not be good in its extension to different States. Thus there is a limit in the mode of election by general ticket system.

But the great consideration is derived from the federative view of the subject; and this would suffice, exclusive of any other. We live under an excellent form of Government, which is mixed in its constituent principle. It was at first purely federative. This is merely a graft on the first stock. The mode of ratification was purely federal. Who were the individuals sent to form it? The representatives of States, sent by the States; and the instrument itself was ratified by the States separately and *seriatim*. Politicians may deny this intermixture of a federal character, but such was not the opinion of the framers who handed it down to us. The government would be one of the worst, if it were to lose this character. It would be defective in every requisite of

knowledge, of leisure, and of affinity of interest among the several parts. It would be unable to govern the whole of this vast continent. Situated here, it could not provide for all its wants. It would resemble celestial bodies of large orbits, and long periodical revolutions, scorching in some places by its approximation, and, in other parts, cold and languid. It could not have an equal affinity to the People every where. Are there not discrepancies in different States, as wide as those between different nations? The interests of Maine and Massachusetts are essentially different from those of Missouri. What sort of Government then should we have? A Government impelled and administered in reference to particular interests and party considerations only. It would be a Government destitute of all efficient control. What information would a member from Maine or Massachusetts possess of the interests of Missouri? He would necessarily subserve party views. He must obtain his impressions from a Representative from that peculiar section of the Union, who will be more desirous to obtain his co operation, than to communicate clear and correct expositions of fact. Thus would legislation be converted into something worse than a system of juggling—a system of party machinery, contrivance, and jobs.

Our representative state systems involve the federal principles. What are the true principles of federation? Local interests managed by local agents—managed by those who have interests in the State, and who act under responsibility. Our sub-divisions of police are founded on these admirable principles. Our counties are federations of townships; our States of counties. The recommendations to this principle are—that it gives the exercise of authority to those who are to feel it—that it gives the supervision of interests to those who partake them; it gives knowledge from local position; and affords more leisure, from the sub-division, to every department of authority.

A federative system implies a balance of authority between two Governments. These balances and equipoises are hard to be sustained. They are *ex vi terminis*, liable to disturbance. There is a continual struggle in the different powers to destroy it. The subordinate power will seek to withdraw authority, and the paramount to absorb it. The corrective of the first tendency is, to render the General Government independent of the State Governments for its operation. This has been done by the change from the Confederation. The General Go-

vernment was dependent on the States absolutely. This form of dependence has been destroyed, and the old system of requisition has been given up. Here we have the correction of the second tendency, which is to allow the subordinate a check on the paramount power. This is done by the mode of organizing its functionaries. The State Governments appoint the Senate. But this is not sufficient. Why? Because the Senators are not all appointed at one time, and misrule may be sustained by two thirds. The control of the State Governments over the election of the House of Representatives is very slight. The effective control which is given, is that over the election of the President. The President is not only the active power, but is part of the Legislature. Nothing can be done without him. His acts are a part of the acts of the Government. He is the neck in relation to which you may realize the policy of Caligula, and strike with decisive effect. Control held over him is efficient on the whole Government. For this reason—in consequence of this view, in the first plan of the Constitution, the convention gave the appointment of electors to the State Legislatures. Two propositions were made to expunge this feature, without success. It was finally surrendered for the present system, which was considered to be tantamount. The Legislature has now the appointment of the mode of the choice of electors. The design was to give control by the power to consolidate the vote of the State. A district system would divest this control, and subvert this material part of the plan of the constitution.

The utility of the State Legislatures as the rallying points of public sentiment is admitted. This is what the oppressed have always stood in need of; and the continuance of oppression is owing to the want of it. What is the cause of despotism in all parts of the world? What causes millions to submit to the control of one man, frequently the most insignificant, worthless, or brutal, among them? Because, when misgoverned, they have no means of combination to put down the usurpation of power or its abuse. We have the remedy. The State Legislatures are admirable for this purpose, on account both of the adequacy of their expression of public sentiment, and their regular periods of assemblage. But they require an instrument by which to reach their object. Remonstrance is not sufficiently powerful; coercion would derange the equipoise of the system. What has the Constitution provided? It has given this control over the Presidential election as the instrument.

Here all disorder is prevented, and the system is kept subordinate to the federal principle, and to the general safety. The State Legislatures are the foci to collect rays of public sentiment. But what is required of these foci? The rays are not to be scattered, but some mode was to be provided for throwing them concentrated on the object to be affected. A prismatic instrument which dispersed them would frustrate the design. The policy was to provide a *lens* to throw them in a concentrated form, or a given point. The District system is the *prism*—the General Ticket system is the *lens*. It realizes the defensive contrivance, the burning glasses of Archimedes; by which, if misgovernment from a single point should attempt to operate on the system, we can meet it in its first efforts to consolidate, and reduce it to ashes.

He was asked, if this faculty of operating with consolidated strength, and controlling the election of President, was a State right? Let the words of the Constitution answer: "Each State shall appoint, in such manner as the Legislature thereof may direct," its number of electors. Was this a right of the States in their political, and not of the People of the States in their general, collective capacity? Let the language of the most authoritative commentary on the Constitution, the *Federalist*, reply:—"The immediate election of the President is to be made by the States in their political characters." Nor was this a mere barren right of the States. It was a most beneficial power; not beneficial to the States only, but to the Union. It was not a mere question of relative power, among the States, as the gentleman from South Carolina had supposed. Each State has an interest in it belonging to the other States. The interest is common that public opinion should act efficiently. Would the divestiture of this right tend to give the form of consolidation to the General Government? The idea was, that this result could not ensue, because the power divested, though taken from the Government, would be given to the People of the State; and could not, therefore, have an effect of State divestiture. Let all powers, then, be taken from the State Governments and given to the People—the State Governments be effaced—would that be consolidation? No, it was said: for consolidation expressed the concentration of all political powers in this Government, and this Government would still have no more than its former amount of power, if the powers divested from the State Governments were only reabsorbed in the general political capacity of the People. But

how long would this amount of power, in the General Government, remain the same? The functions and authority of the State Governments displaced, how long must it be, before the functions and authority of both Governments must become vested in the General Government? All necessary powers must exist somewhere. The political functions and authority, required for the well-being of the community, were not to be remitted. His friend from South Carolina knew, and had stated this truth with great force, for a purpose of his own. If there were but one Government in a community, all the political powers, required by its well-being, must be vested in that Government. If this were not done by grant, it must be by assumption: for the objects of civil association could not be allowed to perish—its functions must go on. If these powers were not acquired by assumption, then they must be obtained by grant. In one or the other mode they must vest, by a necessity that was indefeasible and irresistible. It was the knowledge of this truth which furnished those who looked beneath the surface of political science, with the important axiom, that one of the modes of giving to Government the character of despotism, under its worst form, was the denial of power really requisite, for the attainment of its designs. But he would furnish the solution, as to the mode in which the powers of the State Governments would be acquired by the General Government, in the event of the extinction of their authority, through the channel of its absorption by the People. The mode was one, with the activity and efficiency of whose operation, we had unhappily already become familiar. This mode was the extension of the charter, defining the limits of the general power, by the process of a constructive interpretation of its provisions. In the multitude and variety of the questions which had arisen, now that the State Governments retained a menaced and struggling authority, who ever heard of a decision on the construction of the Constitution, in which any really important claim of power, on the part of the State Governments, had been admitted, or its arrogation on the part of the General Government subdued? If a construction of this kind in some auspicious moment, or from some accidental cause, had heretofore occurred, who was now so uninstructed and credulous a child, as to expect again to witness this event? All power incident to the undefined, general, illimitable, objects of civil association and political institution, had already in effect been asserted on behalf of the general

authority. The varying and flitting horizon of the "general welfare," was now not assigned, he might almost say it was established, as the boundary of this authority. It had even been regarded as an imputation on mental perspicuity and sanity, as a negation not in an ordinary but an "ineffable" degree absurd, to deny to the General Government a power which conduced to the general good. This was the way, then, Mr. A. said, by modes of construction like these, that the General Government would come into possession of all, and much more than all, the subsisting power of the State Governments, if the authority of these Governments should be broken down. If that event were to occur, this effect would be inevitable. He only wished the effect might wait for that period; which, if the signs of the times were to be regarded, would itself be not very remote.

Then, did the subduction of the power in question, from the States, tend to consolidation, in the sense in which the gentleman from South Carolina had himself defined it, as importing a concentration of powers in this Government? Here were two Governments set in operation over the same territory and People, with a view (whether wise or not, was not now material) to their affording a system of counterpoise and check upon each other. If you deducted from the power of the one, no matter in what manner the deduction was disposed of, did not the deduction enure to the augmentation of the power of the other? If the weight were taken from one scale only, without encroachment on the other, did not the equipoise of the beam, nevertheless, sustain subversion? We had the balance in both of our systems of two popular branches of Legislature, to whose conjoint operation the discharge of the office was assigned. If power were deducted from one of these jurisdictions, no matter how bestowed, would the equipoise of the two jurisdictions remain the same, in its adjustment, or the control which this equipoise was intended to subserve, undisturbed in its efficiency? If all power were vested in a single branch of Legislature, would the form which the Government would then assume, be consolidated, and would the result of it be despotism? What, then, was this same operation as related to two Governments intended to subserve the same design identically as two branches of Legislature in the same Government? Would the annihilation of the State authorities, or what was tantamount, the gradual *dilution* and reduction of these authorities to insignificance, amount, in its effects to consolidation: that is to say, the absorption of power

in this Government? The want of a just comprehension on the part of his friend from South Carolina, in relation to this branch of the discussion, was astounding, and only to be explained by the influence of prepossession on his mind. He had spoken of the effect of the system he recommended, to produce a consolidation of the People: the very reason why it ought not to be adopted; and had cited the authority of Gen. Washington as giving countenance to his doctrines. The authority he had cited concluded to the exact reverse and subversion of his position. "In all our deliberations," said this venerated authority, referring to the proceedings of the Assembly by which the Constitution was produced, "on this subject, we kept steadily in our view that which appears to us the greatest interest of every true American, *the consolidation of our Union*; in which is involved our prosperity, felicity, safety—perhaps our national existence." This was, indeed, high authority, deserving to be held in perpetual memory, as well as reverence, and which ought to be inscribed in the front of every Constitutional deliberation in this Government. What did this authority assert to be the greater interest of every true American, which the initiative organ of the Government had held perpetually in view, as involving "prosperity, felicity, safety, perhaps national existence." The object ought to be buried in every heart, as it was first in the heart of him who was "first in the hearts of his country men," as he was, and deserved to be in the admiration of the World. This first of interests, to which all deliberations was to be kept steady, was what? The answer ought to sound in every corner, and find a response in every bosom. "*It was the consolidation of our Union.*" And what was imported by the consolidation of our Union? Not, assuredly, consolidation *into* unity. Union did not imply unity. It implied exactly the reverse. The unity of the States was their submergence. Precisely that condition in which their Union became extinct—Union, like other living things, had its condition of death, and this was unity. The gentleman from South Carolina wished to consolidate the People. The District system he recommended, did not even tend to that effect, but to their distraction. On his own principles, he ought to reject this District and adopt the General Ticket system: for the great principle on which he had so strongly insisted was as just as it was valuable—that the most efficient form should be given to the action of the opinion of the community, and the General Ticket mode of election is this form.

If, then, Mr. ARCHER was asked for the danger he apprehended to State jurisdiction and safety, the answer was as obvious as explicit. These great interests had a two-fold form of safeguard. The first was that which resulted from the definite limit of the amount of the general power inscribed in the letter, as it would have been implied in the outline, by fair intendment from the design of the Constitution. To the views which suggested doubt of the validity of this safeguard, derived not from conjectural speculation, but the instructive testimony of events, he had already had occasion to advert. Then here was danger to State Rights, in the debilitation of this guard: for he admitted that it had not yet been entirely subverted. What was the remaining form, of State safeguard? The power of action on the administration of the General Government, through a control on its elections. This safeguard, the only form, as had been shewn, which afforded a real protective efficiency; it was the object, he had almost said in reference to its tendency, the frantic object of the proposition of amendment he was resisting, to demolish. Then here was the danger to State rights, not only from the possible success of the proposition, but from the evidence (an ominous evidence it was) which the exhibition and entertainment of the proposition afforded; of the condition of the public mind in relation to the safeguards of the States and the Constitution. The defences, indeed, remained; the ramparts were uncrumbling and unmouldered; but the ranks which were to man these defences, the artillery of public sentiment, which could alone render these ramparts effective, where were they? What was to be the fate of this proposition? Men doubted. Where were the presses, the organs of public feeling, in which it had been denounced? Lethargy was not the incident of the commencing, but of an advanced stage of the progress of disease. The termination of this disease, it was but too probable would be death—the death of Federation. “And in that sleep of death,” where we had thrown off not this mortal, but Federative coil, “what dreams may come, must give us pause.” Clouds and darkness hang over every condition of future destiny. But that the destiny in the present instance must be evil, no revelation was required to assure us. The form could be twofold only. Disrupture into fragments, or national consolidation. Suppose the first of these results; and what was to ensue? Among the separated confederacies, commercial and political rivalry—oppressive foreign con-

nexions—hostile strife—standing armies—heavy taxation for their support—and the termination, (for these things have but one issue)—despotism of some form. This was one alternative of the rupture of Union. What was the alternative of its extinction by the mode of national consolidation? We should then, indeed, have a general government, and what would be its character? What a detestable form would it exhibit, however it might be popular, and guarded by the show of responsibility? It would have no adequate knowledge—no sufficient common interest—no real responsibility—no leisure for the supervision of the great interests it would control—all would be a system of partisanship and jobbing! One Government—and what must it be? Not the gulf which had been laughed at; but worse, a vortex, a Charybdis, engendered by the multitude of confluences and rocks, in which all tides and regular principles of motion would be submerged. It is only the principle, then, of the consolidation of State strength, which can avert the character and form of consolidation in the government of the nation. State consolidation prevents general consolidation. If there be a pressure towards unity, it is only to be repressed by increasing the weight of the reacting bodies.

It had been admitted by the gentleman from South Carolina, that the State Governments were the sentinels of the General Government. Why not give them ward as well as watch? When they stood upon the ramparts, why not confide to them the artillery, which would turn the Public sentiment against the enemies who might beleaguer the Constitution? He fears they will be corrupted by the power in question—that they will conspire with the General Government, and communicate to it a morbid activity. This cannot be. Who ever heard of one Government being anxious to usurp, not for itself, but for another? For this reason they will not conspire with the General Government. At any rate, a double conspiracy will be requisite. This is not to be presumed. If they conspire, they produce no new evil, and make no addition to that which would otherwise exist. If they counteract each other, on the contrary, they are exceedingly beneficial. What harm has the stream of State concurrence done for twenty-five years? What good did not the power of legislative action do in 1799? If pressed by the suggestion in question, a reference to the results of this action in that period was the reply.

The principles of his friend from South Carolina especially demanded a concurrence in these views. He

has insisted much on the great source of danger to be apprehended in the Executive. The patronage of our Executive is represented as greater than that of England. The peculiar construction of our society, our fondness for office, and avidity to be seduced, have all been urged. Yet his friend from South Carolina endeavors to knock down the only check. His argument is irreconcilable to his principles. Here is a check by which the Executive is kept in complete control to public sentiment. His friend's rejection of this check, must spring from his idea of the inefficiency of checks. There is no safety in political institutions without checks and balances. Organized power can only be restrained by organized power. The want of an organized check was the reason of the submission of Rome to the Neros and Caligulas. Let us look at Roman history. A bad Emperor was put down. Did any benefit result? None. Things immediately relapsed into their former state. This was no action of restraint which was regular or steady. The evil was aggravated, indeed, rather than alleviated : for fear was rendered more unsparing, and tyranny more implacable. The only institutions which can alleviate despotism are organized Powers. What is the alleviation of despotism in Turkey? Religion; an organized power. The press is this check in more enlightened countries. The historical evidence is in favor of checks, and not against them. When Rome was founded, Romulus instituted a Senate, a popular Assembly, and a King: here we have balanced powers. Servius Tullius, the wisest of her Kings, added to these the influence of property. This was another check and balance. The design of the tribunes was to give greater effect to these balances ; but they destroyed the balances, and gave the ascendancy to democracy. Then the rabble introduced Cæsar. The State would not afterwards have a free Government when some Emperor wished to re-establish it, because it knew that the monarch was better than the anarchy; that any despotism was more tolerable than that of unbridled multitudes and confusion.

All historical analogy exhibited the same results. The gentleman from South Carolina seemed to think that England has not a system of checks and balances. He maintained, on the contrary, that England flourished by her balanced Constitution. To that she owes her uncommon power. It was said that the corruption of the House of Commons had destroyed this balance. This corruption was, however, counterbalanced by another power. The apparent disturbance of the balance is cor-

rected by the press. Lord Coke said Parliament was a place where the People speak their mind. England is represented fairly by her newspapers. These are in effect, her Parliament, where the People speak their mind. These keep the House of Commons from entire subservience, and counteract the evils of the septennial system. This is the balance system. Melancholy indeed would it be for the human race, if there were no instance of balanced government. If he were to define despotism, he would call it unbalanced government. We have not only a Legislative, a Judiciary, and an Executive, but we add a second balance of two governments; and a third, of two principles in one General Government—a federal and a national. We have, therefore, carried this excellent doctrine of balances further than any other People.

He put this discovery among the greatest which the world ever saw. It was next to those of Copernicus, Newton, and Columbus. Columbus gained his immortality by the discovery of a new World; we have discovered a new method of governing this World, by making it the seat of free principles, the influence of which is felt to the remotest corners of the Universe. Yet this admirable system is sought to be destroyed for the sake of a political abstraction—the abstraction which required the reference of all power to popular agency for its discharge. But, allowing the justice of the abstract principle, it had no application in the present discussion, because the real import of the principle required the reference of power to the constituent body, whatever it might be; and the States, the People contemplated, and acting not in an aggregate capacity, but as members of political communities, were the constituent bodies contemplated by the Constitution in relation to the election of the President. This was not only apparent from the terms of the constitution, in the clause which it was sought by the present proposition of amendment to reform, but it was verified by the express authority of the commentary of the Federalist, in which it was explicitly asserted that this election is to be made by the States in their “political character.” But neither was this principle just in its application to an ordinary representative system of the expediency of referring every species of political agency directly to the People. It conduced neither to the security, the dignity, or the real efficiency of the People, to have agency forced on them to this extent. The avowal of such a doctrine might be unpopular, but he had no objection to the avowal of unpopular doctrine

if he knew it to be salutary and just. He would not shrink from opposing a stream of error, because it approached him in a broad and furious torrent. The effect of this doctrine of the reference of a perpetual and engrossing political agency to the People, was to make them tyrants first and slaves afterwards. What have we seen in the popular Governments of Greece and Rome? The effect of this principle in those cases was first a necessity for the distribution of oboli and bread, then general venality corruption and violence, throwing every thing into confusion. Had he lived then he would have preferred despotism. The despotism of an individual would have been a relief. Representation is the true safe-guard of the People.

The assertion had no foundation that representation is necessary in large States only. It is as necessary in a small as in a large State. Representation is better through members, although they are no wiser than the People. Popular sentiment is fermentive in its first concoction: it requires to pass through a cooling medium, to rectify and make it fit for legislation. Popular opinion would be continually liable to the influence of improper excitement. Representation changes its nature. The People, in their direct capacity, would not be responsible; they would be subject to no control. Representatives know they are acting as agents, and under deep responsibilities.

The popular Assembly of Athens was superior to any other which had ever existed, as respected a qualification for the direct exercise of political power. Would any legislative body, derived from this assembly, have dared to expel Aristides and Anaxagoras from the State, or to send Socrates and Phocion, and on one occasion the whole body of the naval commanders, for losing a battle without fault, to execution? Instead of doing every thing by their own agency, as is now proposed, he would allow them to do nothing by themselves, but every thing by agents, secured from misconduct by adequate guards of responsibility. Those who overlook the game understand it best. What would we think of the sanity of any individual, who, instead of confining himself on his farm to the exercise of a supervising authority, should undertake to perform all the offices himself? The true principles of popular efficiency are to vote by large masses, and to act by representation. Let not the whole body of the People be distracted by vices and local interests, but let their political action be depurated by representation.

Applying these principles to the present subject, he wished to retain every part of the Constitution in its present form, but that which refers the election to the House of Representatives. His plan is to retain the primary election, and the electors, and to send back the election, in any mode. If we agree on the principle, we can find the mode. We must have a form of general government. None could be safe but the Federative form; and the State power which this proposition for a district system aimed to sacrifice, was an essential conservative principle, and safeguard of that system.

We have reason to regard ourselves as the most fortunate and blest of People. All the population of every other quarter of the world have suffered from misrule; while we, with all the elements of misrule in our general government, have such powerful guards, that before they can be brought into efficient operation, the People themselves must conspire for their own destruction. They must conspire in a double capacity, and in a two-fold mode: by their direct representation in this House, in their aggregate capacity, and in their political character, as States, through their action on the appointment of the three branches of Federal Legislature, and especially of the President.

He could only consent to change the Constitution where experience and time, the great masters, have taught us it is defective; and that is in the reference of the election to the House of Representatives.

But it is said we must adopt the district system, on the necessity of compromise with the small States. Compare the terms of compromise. The small States are asked to give up what threatens the general good; the large States, what is essential to the general good. Was a principle of malevolence to be imputed to the small States? If the small States desire a sacrifice from the large States, yet they ask no sacrifice from the People. The value of the vote to the small States is none. It does not come until after the contingency which they would avert. It is not then a general choice, but only a choice out of three persons. Suppose a small State votes as the majority would do; then the vote is supererogatory. Suppose a small State votes against the majority, then the responsibility is to be deprecated. But the small States have a direct interest in the preservation of the power of the great States to consolidate. Their first interest is not in the election of an individual, but in the preservation of the federation. The small States will, and ought to, surrender any rights for the

public good. They held power not for the small States but for the whole Union. What is the highest interest? Self preservation. How is the Federation to be preserved? How is the life of the small States to be preserved? If danger threatens the Federation, only the great States are adequate to give it protection. The Teucers must fight under the shield of the Ajaxes, in the day of battle, for the rights or existence of federation, if that day should ever come. It would be an act of madness in the small States, by stripping off its folds, or reducing its verge, to bring the shield to the weight of their own arms. They will, if wise, fight in the armor of Achilles. He hoped no wily effort would be made to obtain this armor. He trusted that wily influence and persuasion may not prevail, as of old, to the destruction of one of the bulwarks of the national government, and of freedom. If they should, it would still be his consolation to have given his honest, though feeble counsels, to avert such an event.

But a few words more. We must have some form of General Government. We can have no security for our freedom, but in the principle of States acting on the General Government, in a federal capacity. It is impossible to separate this federal principle from our institutions, without opening the door to evils of the most fatal character. But the divestiture of the House of Representatives of the power of election, he regarded as essential to the conservation of the Union. He believed the election of Chief Magistrate to be the vulnerable point in the Constitution. It is there that the stability of the Government is most doubtful. This election is the Roman Gulf, into which we should throw whatever is most precious to us, if it can only be closed by such a sacrifice. He believed the whole human race interested in the experiment of free government we were conducting. We must not then permit this source of danger to remain. Take this power from the House of Representatives. Such was his object: this he would do at all events. The interests of freedom, in all countries and ages, are tied up, bound, and incorporated in our experiment. No less, then, as a philanthropist, than as a patriot, he was prepared for every sacrifice. And as the act of Curtius, supposing him to have saved his country, exerted an influence on all other countries and times—so would our act redound, in effects incomparably more extensive, and imposing, and beneficent, if we should be successful, by auspicious councils, in closing this chasm, which yawned in the Constitution, from the

perilous jurisdiction of the House of Representatives, over the election of the Chief Magistrate of the Union.

Mr. ARCHER then concluded by expressing a hope that the first resolution would prevail, and the second be rejected.

